

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DENNIS FOSTER, )  
Petitioner, )  
v. ) Case No. 4:10CV00882 AGF/DDN  
JENNIFER SACHSE, )  
Respondent. )

## **MEMORANDUM AND ORDER**

This matter is before the Court on the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by petitioner Dennis Foster. The Court referred this matter to United States Magistrate Judge David D. Noce for a Report and Recommendation on all dispositive matters pursuant to 28 U.S.C. §636(b). On November 29, 2012, Magistrate Judge Noce filed his recommendation that Petitioner's habeas petition should be denied. Petitioner did not object to the Report and Recommendation, and his time for doing so has now expired.

After review of the records and consideration of the issues, the Court hereby sustains, adopts, and incorporates herein the Magistrate's Report and Recommendation.

The Court does not believe that reasonable jurists might find the Court's resolution of the issues in this case debatable or wrong, for purposes of issuing a certificate of appealability under 28 U.S.C. § 2253(c)(2). *See Miller-El v. Cockrell*, 537 U.S. 322, 337 (2003) (standard for issuing a Certificate of Appealability) (citing *Slack v. McDaniel*, 529

U.S. 473, 484 (2000)); *Langley v. Norris*, 465 F.3d 861, 862-63 (8th Cir. 2006) (same).

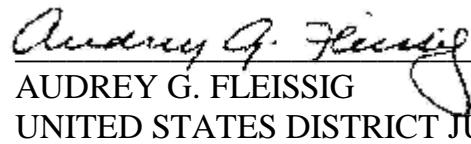
Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation of United States Magistrate Judge Noce is sustained, adopted, and incorporated herein. (Doc. No. 33.)

**IT IS FURTHER ORDERED** that the petition of Dennis Foster for habeas corpus relief is **DENIED**.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability.

A separate Judgment shall accompany this Memorandum and Order.

  
AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE

Dated this 19th day of December, 2012